



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.4263 of 2022
and W.M.P(MD).No.3637 of 2022

Balamurugan

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Administration,
Hindu Religious and Charitable Endowments Department,
Trichy.

3.S.Mahendran

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the second respondent, dated 12.02.2022 in Na.Ka.No.4601/2021/A1 and quash the same.

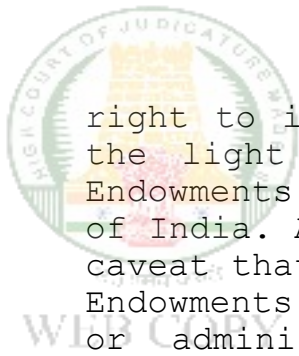
For Petitioner : Mr.V.R.Shanmuganathan
For R1 & R2 : Mr.P.Subbaraj
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2.

2. The writ petition has been filed for challenging the impugned proceedings of the second respondent, dated 12.02.2022 bearing reference Na.Ka.No.4601/2021/A1.

3. By the impugned order, the second respondent Joint Commissioner has given an innocuous directions to maintain accounts and to open bank accounts etc. These directions of the second respondent appear to be in consonance with the law laid down in Hon'ble Supreme Court in **Dr.Subramanain Swamy and others Vs State of Tamil Nadu, 2014 MLJ 62**. The Hon'ble Supreme Court held that the Hindu Religious and Charitable Endowments Department will have no



right to interfere with the affairs of a religious denomination in the light of Section 107 of the Hindu Religious and Charitable Endowments Act, 1969 read with Article 25 and 26 of the Constitution of India. At the same time, the above observations were given with a caveat that the authorities under the Hindu Religious and Charitable Endowments Act, 1969 have a reserve power to regulate the management or administration of the temple, which belongs to religious denomination in case of specific complaint of maladministration and mismanagement. This view was followed by a learned Single Judge of this Court in **Arulmighu Balagurunathasamy Sametha Angala Parameswari Amman Thirukoil Vs The Assistant Commissioner, Departement of Hindu Religious and Charitable Endowment, 2017 (4) CTC 705**. Though the decision of a learned Single Judge was appealed before the Division Bench in W.A.(MD).No.1190 of 2017. The Division Bench ultimately dismissed the writ appeal filed by the official respondents herein, the appellant therein. It appears that there in a past history to the denomination temple called Arulmighu Pichayee Amman Thirukoil, Piramanar Kovil Street, Manachanallur Taluk, Thiruchy District.

4. It is the case of the petitioner that the temple was under a control of the petitioner's great grandfather Muthu Veeran Chettiar and that the erstwhile Board concluded that the said temple was a denominational temple and the hereditary trustee could administer the affairs of the temple by an order dated 03.12.1932, vide Board Order No.1875. In 1980, at the behest of the third respondent's father, namely, S.Seshan Chettiar, a non hereditary trustee was appointed by the Board and therefore a suit in O.S.No.407 of 1980 before the Subordinate Judge Court at Thiruchirappalli was filed by petitioner's grandfather Natesan Chettiar and grand uncle Chinnathambi Chettiar. The suit was decreed as prayed by the Trial Court on 16.03.1983, which was categorically held that the plaintiffs, namely, Chinnathambi Chettiar and Natesan Chettiar, were entitled to a declaration that the temple was a denominational temple belongs exclusively to the plaintiffs therein and that the plaintiffs were entitled for declaration and injunction sought for.

5. Later sometime, in the year 2003, the third respondent's father appears to have filed O.S.No.169 of 2003, before the Additional District Munsif Court, Lalgudi. The said suit was filed for rendering of accounts. The suit was dismissed. A further appeal was filed before the Appellate Court in A.S.No.138 of 2010. The said Appeal Suit was also dismissed by the Appellate Court on 31.01.2013. Thereafter, the third respondent appears to have given a representation on 08.07.2021, pursuant to which an order came to be passed by the second respondent Joint Commissioner on 29.11.2021, whereby a fit person was appointed by the second respondent. The petitioner therefore filed W.P.(MD).No.21873 of 2021. The said writ petition was disposed on 09.12.2021, by setting aside the order, dated 29.11.2021 of the second respondent and the case was remitted back to the second respondent to pass a fresh order on merits after



hearing the petitioner, as the said order was passed in violation of principles of natural justice.

6. Pursuant to the aforesaid order, the second respondent has now passed the impugned order denovo. In the denovo proceedings, as mentioned in the beginning of this order, the impugned order has given certain innocuous directions to the petitioner. The petitioner cannot have any complaint as the petitioner has been asked to merely maintain accounts and file appropriate documents regarding the assets of the temple etc. Therefore, to that extent, there cannot be any interference by the petitioner either before this Court or before appellate authority or revisional authority under the Hindu Religious and Charitable Endowments Act, 1959. However, asking the petitioner to work out an alternate remedy once again before the civil Court *prima facie* appears to be beyond the powers vested with the second respondent Joint Commissioner inasmuch as the suit filed by the petitioner's grandfather and granduncle in O.S.No.407 of 1980 has conclusively decided the issue. Similarly, the direction in the penultimate paragraph of the impugned order asking for a meeting of the members to appoint a hereditary trustee also appears to *prima facie* contrary to the judgment and decree of the Trial Court in O.S.No.407 of 1980.

7. Therefore, I am inclined to keep the operation of the last two paragraphs in the impugned order in abeyance for a period of sixty days from the date of receipt of copy of this order with liberty to the petitioner to work out an alternate remedy under Section 21 of the Hindu Religious and Charitable Endowments Act before the Commissioner.

8. In proposed application under Section 21 of the Hindu Religious and Charitable Endowments Act, the petitioner shall array the third respondent, herein, as a respondent. Such application shall be filed within a period of thirty days. In the said proceeding, the petitioner is also given a liberty to file a miscellaneous application for continuation of this interim order beyond 60 days pending disposal of such application before the Commissioner under Section 21 of the Act.

9. The writ petition stands disposed with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

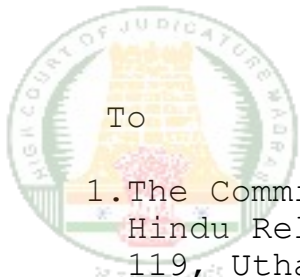
Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Administration,
Hindu Religious and Charitable Endowments Department,
Trichy.

+1 CC to M/s.SPL GP (SR-11492[F] dated 11/03/2022)

W.P (MD) .No.4263 of 2022
10.03.2022

SN

MS/23.03.2022/4P.4C